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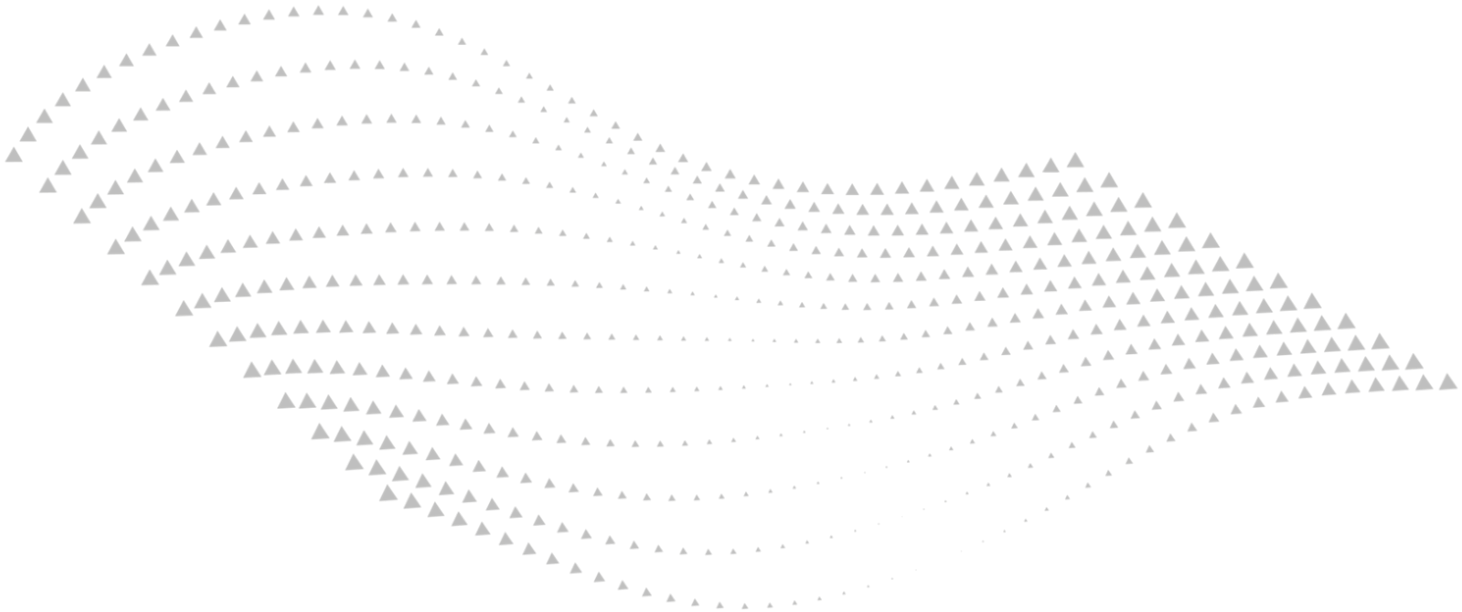
Freedom of Speech Policy



Last approved: April 2022

Approved by: BIMM Limited Board

Next review due: April 2026

1 Applicability

1.1 This Policy – which applies to all BIMM University campuses - is based on UK legislation; however, the definition and principle of Freedom of Speech as defined in this Policy shall apply to staff and students at all BIMM University's campuses, including those outside the UK.

2 Introduction and Purpose

2.1 Article 10 of the Human Rights Act states that: "Everyone has the right to freedom of expression. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers." BIMM University is committed to upholding the principle of freedom of speech and expression within the law and academic freedom in its teaching and research. It also has regard to the need to ensure that free and open discussion can take place and that a diversity of views can be tolerated, including views that may be regarded as controversial and / or provocative or unpopular. A key aim of BIMM University is to foster an environment where academic freedom and freedom of speech is secured within the law and that academic staff have the freedom within the law to question and test received wisdom without placing themselves in jeopardy of losing their jobs or any privileges they may have at BIMM University.

2.2 Every person employed at BIMM University and every student enrolling at BIMM University should be aware that joining the student community involves obligations and responsibilities which are consistent with the above principles and the law and that these are included in BIMM University's codes of practice, policies and procedures that staff and students agree to comply with under their terms of employment or registration, respectively. This does not mean that the right to freedom of speech or academic freedom is unfettered, as it may be limited by law to protect the reputation or rights of others, protect national security and public safety and for the prevention of disorder or crime and to prevent disclosure of information received in confidence.

2.3 Section 43 of the Education Act (no 2) 1986 places a legal duty on Higher Education providers to promote and protect freedom of speech on campus. It states that the only constraints on the duty to secure freedom of speech are those imposed by law and, therefore, in operating this policy, BIMM University seeks to ensure that the principles of freedom of speech are upheld, balanced with its legal obligations to protect the welfare of both staff and students. It is not for higher education providers to set limitations on those obligations.

2.4 The central importance of freedom of speech and academic freedom in Higher Education institutions underlies this policy, which should be read in conjunction with the Prevent Duty Policy and External Guest Booking Procedure. This Policy ensures that, as far as reasonably practicable, academic freedom and freedom of speech within the law is secured for staff, students and visiting speakers to BIMM University.

2.5 Higher Education providers are often affected by wider conflicts and disputes relating to external issues, for example involving ethnicity or religious beliefs. The challenge for BIMM University is to identify when the pursuit of freedom of ideas and expression crosses a threshold and becomes unlawful or poses an unacceptable risk to the health and safety or welfare of employees, students or visitors.

2.6 BIMM University's Governing Body (the BIMM Limited Board) has authorised the Deputy Vice-Chancellor & Provost to act on its behalf to ensure, as far as is reasonably practicable, that all members of BIMM University (staff and students) and all visiting speakers and attendees at

meetings or events comply with the provisions of this Policy and any related policy or procedure. The Head of Quality Assurance and Enhancement has delegated responsibility as operational lead in this respect.

3 Principles

3.1 BIMM University believes that a culture of free, open and robust discussion can be achieved only if all concerned engage critically but courteously with each other. BIMM University does not tolerate any form of harassment or victimisation and expects all members of the community and its visitors to treat each other with respect, courtesy and consideration. BIMM University is committed to fostering an inclusive culture which promotes equality, values diversity and maintains a working, learning and social environment in which the rights and dignity of all members of the community are respected.

3.2 This Policy is underpinned by the statutory requirements of Section 43 of the Education (no 2) Act 1986 and the following core principles (based on the Equality & Human Rights Commission's Freedom of expression: a guide for higher education providers and students' unions in England and Wales):

a) Everyone has the right to freedom of speech within the law.
b) BIMM University will always work to widen debate and challenge, rather than narrow it.
c) Any decision about speakers and events will seek to promote and protect the right to freedom of speech within the law.
d) Peaceful protest is a protected form of expression - however, protest should not be allowed to shut down debate or infringe the rights of others.
e) Freedom of speech should not be abused for the purpose of unchallenged hatred or bigotry. BIMM University will always aim to encourage balanced and respectful debate within the law.

4 Scope

4.1 This Policy's obligations shall apply to:

a) BIMM University (which shall include all bodies or persons having authority to determine any matter relevant to this policy).
b) All staff and Directors of BIMM University (whether academic staff or otherwise).
c) All enrolled students at BIMM University (whether full or part-time and including the Student Association, its constituent societies, clubs and associations).
d) All visiting speakers to BIMM University and any other person in attendance at any meeting or event which has been duly authorised to take place by BIMM University or using its facilities or premises.
e) All meetings and events (including lectures, seminars, committee meetings, conferences whether physical, remotely and digitally live streamed or recorded) and any other activities (referred to as "events") proposed, planned or due to take place at BIMM University or using BIMM University's facilities or premises or endorsed by it whether including an external speaker or not, together with all events which are Institute organised, funded or branded including events organised by individual, groups and societies using BIMM University name or resources.

4.2 This Policy does not remove the obligation on employees to act at all times in accordance with BIMM University's various staff policies. In particular, employees are reminded of the provisions of the Staff Handbook, the Staff Equal Opportunity & Diversity Policy, and the Staff Social Media Policy (available to staff via the BIMMtranet).

4.3 This Policy does not remove the obligation on students to act at all times in accordance with the relevant student policies, in particular, the Student Code of Conduct, the Student Disciplinary Procedure, and the Student Social Media Policy & Guidelines.

4.4 Nothing in this Policy shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

4.5 BIMM University does not take a formal position on political or international disputes. Instead, it endeavours to provide a platform to facilitate discourse on contemporary issues by encouraging critical debate, where the views of all parties are exchanged and challenged within the law.

5 Duties & Responsibilities

5.1 BIMM University is bound by statutory duty to secure freedom of speech and academic freedom within the law. BIMM University operates with a presumption in favour of freedom of speech. It shall be the duty of all those subject to this Policy to assist BIMM University in upholding the principles of freedom of expression and freedom of assembly and association.

5.2 Those under a duty to observe and uphold the principle of freedom of speech within BIMM University shall do so at all times while working for or on behalf of BIMM University or who are otherwise representing BIMM University whether on or off Institute-controlled premises.

5.3 Staff (and students where relevant) of BIMM University should bring this Policy to the attention of any outside organisations who are providing speakers or are responsible for organising meetings. Such organisations/speakers are expected to uphold the principles of this Policy, respect BIMM University's values and be sensitive to the diversity of the student community.

5.4 It shall be the duty of any person engaged in the organisation of any guest lecture, masterclass, or other similar event under this Policy to ensure the proper security and organisation (including stewarding and chairing of that meeting or like event) for the purpose of upholding the duty to ensure freedom of speech within the law and complying with the provisions of this Policy. See also the External Guest Booking Procedure and Prevent Duty Policy.

5.5 The Student Association shall bring this Policy to the attention of the members of its societies and take steps to ensure that they comply with it. This means that any organiser or other person invited to address an event, other than members of any audience at that event, is obliged to comply with the obligations to ensure freedom of speech under the Education (No.2) Act 1986 (Section 43) and this Policy.

5.6 Executive Management Group, Campus Deans and Heads of School will also oversee the implementation of this Policy.

6 Breach of this Policy

6.1 Any breach of the provisions of this Policy may render those responsible liable to disciplinary action under the relevant disciplinary procedure of BIMM University, or other appropriate sanction.

6.2 Where breaches of the law occur, BIMM University shall, where appropriate, assist prosecution authorities to implement the processes of the law and may suspend any internal process pending the outcome of any such processes.

7 Freedom of Expression & Assembly

7.1 Freedom of expression and freedom of assembly are fundamental rights protected under the Human Rights Act 1998 by Article 10 and 11 of the European Convention on Human Rights respectively. They are also fundamental rights under common law. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply held beliefs of others.

7.2 The right to freedom of expression and freedom of assembly are qualified (rather than an absolute) rights, which means that the rights of the individual must be balanced against the interests of society. These rights operate in the context of the law and the values of a democratic society. They are qualified, for example, by laws to protect others from violence, hatred, and discrimination, to protect national security and public safety, for the prevention of disorder or crime, to protect health or morals, for the protection of the reputation or rights of others, and to prevent the disclosure of information received in confidence. In particular, freedom of expression and freedom of assembly do not protect statements that constitute unlawful harassment or incite violence or hatred against other persons and groups, particularly by reference to race (including language, national origin or immigration status), religion or belief, sex or sexual orientation, age, disability or gender reassignment ('hate speech') or seek to commit offences against public order.

7.3 BIMM University has an explicit duty in law to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for students, employees and visiting speakers. This includes a duty to ensure, so far as is reasonably practicable, that the use of any premises of BIMM University is not denied to any individual or body of persons on any ground connected with the beliefs or views of that individual or of any member of that body, or by the policy or objectives of that body.

7.4 It shall be contrary to this Policy to seek to prevent freedom of speech within the law in accordance with this Policy.

7.5 It shall be contrary to this Policy for any person or body to whom it applies to take any action other than by reasonable and peaceful persuasion or peaceful protest to prevent any student or group of students from attending any lecture, tutorial or other academic activity required by, or properly associated with, the course on which they are enrolled because of the lawful views held or expressed or which are reasonably likely to be expressed as part of that academic activity, whether or not it takes place within BIMM University.

7.6 It shall be contrary to this Policy for any person or body to which it applies to take any action other than by reasonable and peaceful persuasion or peaceful protest to prevent the holding of or continuance of any lecture, tutorial or other academic activity because of the lawful views held or expressed or which are reasonably likely to be expressed, whether or not within BIMM University, by the academic concerned.

8 Academic Freedom

8.1 The principle of freedom of speech within the law set out in this Policy shall extend to academic staff, including visiting and guest lecturers in accordance with the External Guest Booking Procedure.

8.2 Academic staff are protected in their teaching, research and speech by the provision on Academic Freedom expressed within BIMM University's policies, procedures, regulations and contracts of employment. In summary, staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges.

8.3 Academic Freedom and freedom of speech also have to be set within the context of BIMM University's values and those of a civilised, democratic, inclusive society. BIMM University expects its members and speakers and those taking part in Institute activities to respect those values and to be sensitive to the diversity of its diverse community. These precepts apply even in relation to the way views are expressed and any form of protest activity.

9 Approval of Events On & Off-Site

9.1 The primary purpose of this Policy is to ensure that BIMM University can fulfil its legal obligations to promote freedom of speech, whilst at the same time fulfilling other legal obligations and statutory duties and ensuring the smooth running of BIMM University. Where any person subject to this Policy wishes to hold a meeting or other event for the expression of views as set out in this Policy on premises which BIMM University controls, the presumption will be in favour of free speech and BIMM University shall not unreasonably refuse consent.

9.2 BIMM University reserves the right to refuse consent to any meeting or event that involves, or is reasonably expected to involve, the expression of views that are in breach of this Policy or where there are other reasonable grounds for refusal, as set out in this procedure. All such requests should be made and will be considered in accordance with BIMM University's External Guest Booking Procedure.

9.3 The withholding or withdrawal of permission will only occur in exceptional circumstances where measures cannot be put in place to secure freedom of speech within the law and, wherever possible, after consultation with the principal contact for the event and appropriate internal and external parties as are deemed necessary by the Deputy Vice-Chancellor & Provost, who may take external specialist advice when required. The Deputy Vice-Chancellor & Provost has the sole discretion to take this decision.

10 Appeal Against the Decision

10.1 Appeals against the rulings of the Deputy Vice-Chancellor and Provost may be made in writing to the Vice Chancellor and Head of Institution, whose decision shall be final but must be reported to the next meeting of the BIMM University Limited Board.

11 Review, Amendment & Monitoring of this Policy

11.1 BIMM University has a duty under Subsection 3 of Section 43 of the Education (No 2) Act 1986 to issue and keep up to date a Code of Practice on Freedom of Speech. Academic Board should, therefore, receive a report on the operation of this Policy together with any recommendations for

the revision thereof, at intervals not exceeding 3 years. This report shall be consulted on with members of Academic Board prior to consideration by the BIMM University Limited Board.

12 Legal Context

12.1 This Policy is underpinned by external legal context which are documented at Appendix A.

13 Social & Electronic Media

13.1 The principles of freedom of expression and academic freedom apply to the use of electronic and social media; however, BIMM University requires responsible and legal use of the technologies and facilities available to staff and students, including the use of the internet, email and social media. Please refer to BIMM University's Staff and Student Social Media Policies for more information.

Appendix A: Legal Framework

a) The Education (No. 2) Act 1986 (section 43(1)) imposes specific statutory obligations on BIMM University to promote and protect freedom of speech including taking such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for its employees, students and visiting speakers. This also includes the duty to ensure, as is reasonably practicable, that the use of any of BIMM University's premises is not denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives. Under section 43(3), BIMM University is also required to issue, and keep up to date, a policy of practice on freedom of speech, setting out the procedures to be followed by students and staff in connection with the organisation of meetings and activities which fall within any class specified within this policy, together with the conduct required of staff and students in connection with such meetings and activities.

b) The Higher Education & Research Act 2017 (HERA) makes it clear that all universities and colleges which register with the Office for Students (OfS) must uphold the existing laws around freedom of speech and follow the OfS' regulatory framework. Under the framework the governing bodies of registered universities and colleges should take 'such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.' HERA also includes a general duty for the OfS to protect institutional autonomy including academic freedom.

c) The Education Reform Act 1988 (section 202) (reinforced by the Higher Education and Research Act 2017) makes clear that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions.

d) The Public Order Act 1986 creates criminal offences relating to public order; to control public processions and assemblies; to control the inciting of racial hatred or on the grounds of religion or of sexual orientation.

e) The Protection from Harassment Act 1997 creates both civil and criminal offences for harassment and makes provision for protecting persons from harassment and similar conduct.

f) The Human Rights Act 1998 in particular Article 9 (freedom of thought, conscience and religion); Article 10 (freedom of expression); and Article 11 (freedom of assembly and association).

g) The Equality Act 2010 requires BIMM University, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between different groups.

h) The Terrorism Act 2006 creates offences relating to the encouragement of terrorism and dissemination of terrorist publications, including publishing, or causing another to publish, a statement likely to be understood as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism with the intent that members of the public will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism, or being reckless as to whether that effect will be caused. Office for Students: Advice and guidance – Freedom of Speech.

i) The Counterterrorism & Security Act 2015 creates a general duty on BIMM University when exercising its functions to have due regard to the need to prevent people from being drawn into terrorism having particular regard to the duty to secure freedom of speech imposed by section 43(1) of the Education (No. 2) Act 1986 when carrying out that duty.